

AMENDED IN SENATE AUGUST 28, 2006

AMENDED IN SENATE AUGUST 10, 2006

AMENDED IN SENATE AUGUST 7, 2006

AMENDED IN ASSEMBLY MAY 22, 2006

AMENDED IN ASSEMBLY MAY 10, 2006

AMENDED IN ASSEMBLY MAY 3, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2573

Introduced by Assembly Member Leno

February 23, 2006

An act to amend Section 2828 of the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

AB 2573, as amended, Leno. Electricity: Hetch Hetchy Water and Power solar generation.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. Existing law authorizes the City and County of San Francisco to elect to designate specific photovoltaic electricity generation facilities meeting specified conditions as Hetch Hetchy Water and Power (HHWP) solar generation facilities, and upon election and the filing and acceptance of an advice letter with the commission establishing rates, Pacific Gas and Electric Company (PG&E) is required on a monthly basis, to credit the City and County of San Francisco for certain electricity generated and delivered to the

electric grid by HHWP solar generation in accordance with specified rate criteria. Existing law provides that the HHWP solar generation may not exceed 5 megawatts of peak generation capacity in total. Existing law provides that no single photovoltaic generation project may exceed one megawatt of peak generation capacity. Existing law provides that where, after a true-up process is completed, the total electricity delivered to the site by PG&E is less than the total electricity delivered to the grid by the HHWP photovoltaic electricity generation facility at the site, the City and County of San Francisco is a net energy producer at that site and receives no credit or offset for the excess electricity exported to the grid from the site.

This bill would authorize 2 different HHWP photovoltaic electricity generation mechanisms. The existing authorization, as modified, would apply to HHWP at-site solar generation, as defined. The bill would provide that HHWP at-site solar generation may not, exclusive of qualifying remote load, as defined, exceed 15 megawatts of peak generation capacity in total. The bill would additionally authorize the City and County of San Francisco to use HHWP remote solar generation, as defined, to supply electricity to qualifying remote load by designating those facilities to be served by HHWP remote solar generation. The bill would delete the provision that no single photovoltaic generation project may exceed one megawatt of peak generation capacity. The bill would require that PG&E accept any electricity exported to the grid by HHWP remote solar generation, up to the amount of electricity contemporaneously being used by the qualifying remote load, and to treat the electricity accepted as behind the meter generation that offsets the electrical usage of qualifying remote load. The bill would make the City and County of San Francisco responsible for scheduling the electricity exported to the grid from HHWP remote solar generation. The bill would require that HHWP remote solar generation sites and qualifying remote load sites have meters capable of measuring exports and usage of electricity sufficient to determine credits or offsets and would make the City and County of San Francisco responsible for the cost of those meters. The bill would require that the appropriate regulatory agency ensure that the delivery of electricity by HHWP remote solar generation to qualifying remote load, and the granting of offsets to the City and County of San Francisco, not result in a shifting of costs to bundled service customers.

Existing law provides that if the City and County of San Francisco engages in retail sales to customers within the service territory of PG&E, the above described provisions relative to HHWP solar generation become inoperative.

This bill would delete this provision.

(2) The bill would declare that, due to the special circumstances applicable only to HHWP solar generation facilities, a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution, and the enactment of a special statute is therefore necessary.

(3) Under existing law, a violation of the Public Utilities Act, a filed tariff, or an order of the commission is a crime.

Because the provisions of this bill would require the filing of a new tariff, the bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2828 of the Public Utilities Code is
2 amended to read:
3 2828. (a) As used in this section, the following terms have
4 the following meanings:
5 (1) "Appropriate TOU tariff" means the Time-of-Use tariff
6 that would be applicable to the City and County of San Francisco
7 account at the photovoltaic electricity generation ~~project~~ facility
8 site if the facility at the site were a Pacific Gas and Electric
9 Company bundled customer, as determined by Pacific Gas and
10 Electric Company.
11 (2) "Environmental attributes" associated with the Hetch
12 Hetchy Water and Power (HHWP) at-site solar generation and
13 HHWP remote solar generation include, but are not limited to,
14 the credits, benefits, emissions reductions, environmental air

1 quality credits, and emissions reduction credits, offsets, and
2 allowances, however entitled, resulting from the avoidance of the
3 emissions of any gas, chemical, or other substance attributable to
4 the Hetch Hetchy Water and Power photovoltaic electricity
5 generation facility owned by the City and County of San
6 Francisco.

7 (3) “HHWP at-site solar generation” means the electricity
8 generated by Hetch Hetchy Water and Power photovoltaic
9 electricity generation facilities owned by the City and County of
10 San Francisco, designated by the City and County of San
11 Francisco pursuant to subdivision (b).

12 (4) “HHWP remote solar generation” means the electricity
13 generated by Hetch Hetchy Water and Power photovoltaic
14 electricity generation facilities owned by the City and County of
15 San Francisco, designated by the City and County of San
16 Francisco pursuant to subdivision (h), to provide electricity to
17 qualifying remote load.

18 (5) “Interconnection Agreement” means the 1987 agreement
19 between Pacific Gas and Electric Company and the City and
20 County of San Francisco, as filed with and accepted by the
21 Federal Energy Regulatory Commission (FERC), and as
22 amended from time to time with FERC approval, which provides
23 for rates for transmission, distribution, and sales of supplemental
24 electricity to the City and County of San Francisco. Nothing in
25 this section shall waive or modify the rights of parties under the
26 Interconnection Agreement or the jurisdiction of the FERC over
27 rates set forth in the Interconnection Agreement.

28 (6) “Qualifying remote load” means the electricity demand of
29 the City and County of San Francisco for ~~public purposes~~
30 ~~pursuant to the Raker Act (Public Law 63-41, 38 Stat. 412), at a~~
31 ~~site that is load served under the Interconnection Agreement, at~~
32 ~~sites that are separate from, and not adjacent to, the site sites~~
33 ~~where the photovoltaic project electricity generation facility is~~
34 ~~located, and serviced through a meter or multiple meters other~~
35 ~~than those serving the site sites where the photovoltaic project~~
36 ~~electricity generation facility is located. The separate or remote~~
37 ~~site sites may be designated by the City and County of San~~
38 ~~Francisco, both inside and outside of the City and County of San~~
39 ~~Francisco. Where the separate or remote site is sites are outside~~
40 ~~of the City and County of San Francisco, it they shall be located~~

1 within 20 miles of the City and County of San Francisco or
2 within 20 miles of a HHWP remote solar generation facility.
3 There is no wattage limit on qualifying remote load.

4 (b) The City and County of San Francisco may elect to
5 designate specific photovoltaic electricity generation facilities as
6 HHWP at-site solar generation, if all of the following conditions
7 are met:

8 (1) Total peak generating capacity does not exceed 15
9 megawatts.

10 (2) The photovoltaic ~~project~~ *electricity generation facility*
11 utilizes a meter, or multiple meters, capable of separately
12 measuring electricity flow in both directions. All meters shall
13 provide “time-of-use” measurement information. If the existing
14 meter at the site of the ~~photovoltaic project facility~~ is not capable
15 of providing time-of-use information or is not capable of
16 separately measuring total flow of energy in both directions, the
17 City and County of San Francisco is responsible for all expenses
18 involved in purchasing and installing a meter or meters that are
19 both capable of providing time-of-use information and able to
20 separately measure total electricity flow in both directions.

21 (3) The amount of all electricity delivered to the electric grid
22 by the designated HHWP at-site solar generation is the property
23 of Pacific Gas and Electric Company.

24 (4) The City and County of San Francisco does not sell
25 electricity delivered to the electric grid from the designated
26 HHWP at-site solar generation to a third party.

27 (c) For each site of a photovoltaic electricity generation
28 ~~project facility~~ that comprises the HHWP at-site solar generation,
29 Pacific Gas and Electric Company shall identify the appropriate
30 TOU tariff for that site. Any electricity exported to the Pacific
31 Gas and Electric Company grid at that site that is not generated
32 from HHWP remote solar generation pursuant to subdivision (h)
33 shall, for each time-of-use period, result in a monetary credit to
34 be applied monthly as a credit or offset against the invoice
35 created pursuant to the Interconnection Agreement and shall be
36 valued at the generation component of the appropriate TOU
37 tariff. The commission shall determine if it is appropriate to
38 increase the credit to reflect any additional value derived from
39 the location or the environmental attributes of, the designated
40 HHWP at-site solar generation.

(d) Monthly charges and credit amounts for HHWP at-site solar generation are interim and subject to an accounting true-up, consistent with commission policies and practices. The true-up shall be performed annually or upon the termination, for any reason, of the Interconnection Agreement. The true-up shall accomplish the following:

(1) If the total electricity delivered to the site by Pacific Gas and Electric Company since the previous true-up equals or exceeds the total electricity exported to the grid by the HHWP at-site solar generation facility at the site, the City and County of San Francisco is a net electricity consumer at that site. For any HHWP at-site solar generation site where the City and County of San Francisco is a net electricity consumer, a credit or offset shall be applied to reduce the obligations of the City and County of San Francisco to an invoice prepared pursuant to the Interconnection Agreement. If there is no invoiced obligation to be reduced, there is no applicable credit.

(2) If the total electricity delivered to the site by Pacific Gas and Electric Company since the previous true-up is less than the total electricity exported to the grid by the HHWP at-site solar generation facility at the site, the City and County of San Francisco is a net electricity producer at that site. For any HHWP at-site solar generation site where the City and County of San Francisco is a net electricity producer, the City and County of San Francisco shall receive no credit or offset for the electricity exported to the grid in excess of the electricity delivered to the site from the grid. For any site where the City and County of San Francisco is a net electricity producer, the City and County of San Francisco shall receive a credit or offset up to the amount of electricity delivered to the site from the grid. The credit or offset shall be applied to reduce the obligations of the City and County of San Francisco to an invoice prepared pursuant to the Interconnection Agreement. If there is no invoiced obligation to be reduced, there is no applicable credit or offset. Pacific Gas and Electric Company shall use the last-in, first-out method to determine what electricity delivered to the grid from the site will not earn a credit or offset.

(e) Pursuant to this section, the offset to charges under the Interconnection Agreement is the medium to convey credits earned under this section. Nothing in this section shall be

1 construed to affect in any way the rights and obligations of the
2 City and County of San Francisco and Pacific Gas and Electric
3 Company under the Interconnection Agreement. If the
4 Interconnection Agreement terminates, the City and County of
5 San Francisco and Pacific Gas and Electric Company shall
6 develop an alternative mechanism to convey credits earned under
7 this section, in a manner that accomplishes the same result as that
8 accomplished pursuant to the Interconnection Agreement.

9 (f) (1) Pacific Gas and Electric Company shall file an advice
10 letter with the commission, that complies with this section, not
11 later than 10 days after the City and County of San Francisco
12 first designates the specific photovoltaic electricity generation
13 facilities that will comprise HHWP at-site solar generation.

14 (2) The commission, within 30 days of the date of filing of the
15 advice letter, shall approve the advice letter or specify
16 conforming changes to be made by Pacific Gas and Electric
17 Company to be filed in an amended advice letter within 30 days.

18 (g) The City and County of San Francisco may terminate its
19 election pursuant to subdivisions (b), (c), ~~and (d)~~ (d), and (h),
20 upon providing Pacific Gas and Electric Company with a
21 minimum of 60 days' written notice.

22 (h) (1) The City and County of San Francisco may elect to
23 designate specific photovoltaic electricity generation facilities as
24 HHWP remote solar generation and may use HHWP remote solar
25 generation to supply electricity to *specific* facilities designated as
26 qualifying remote load up to the amount of electricity being used
27 by the qualifying remote load.

28 (2) The City and County of San Francisco shall receive no
29 credit or offset for the electricity exported to the grid from
30 HHWP remote solar generation, in excess of the electricity
31 delivered from the grid to qualifying remote load.

32 (3) Pacific Gas and Electric Company shall accept any
33 electricity exported to the grid by HHWP remote solar
34 generation, up to the amount of electricity contemporaneously
35 being used by the qualifying remote load, and treat the electricity
36 accepted as behind the meter generation that offsets the electrical
37 usage of qualifying remote load. *Additional rates may apply*
38 *pursuant to paragraph (6).*

1 (4) The City and County of San Francisco shall be responsible
2 for scheduling the electricity exported to the grid from HHWP
3 remote solar generation.

4 (5) Both HHWP remote solar generation sites and qualifying
5 remote load sites shall have meters capable of measuring exports
6 and usage of electricity that will support determination of credits
7 or offsets pursuant to paragraph (2). The City and County of San
8 Francisco shall be responsible for the costs of the meters required
9 pursuant to this section.

10 (6) To compensate Pacific Gas & Electric Company for
11 the use of its ~~distribution~~ facilities, the City and County of San
12 Francisco shall pay applicable distribution rates, transmission
13 rates, or distribution and transmission rates, ~~as at rate levels~~
14 determined by the Interconnection Agreement, for all energy
15 delivered to qualifying remote load that comes from HHWP
16 remote solar generation. ~~When a remote solar generation facility~~
17 ~~is directly interconnected to a transmission line, applicable~~
18 ~~transmission rates as determined by the Interconnection~~
19 ~~Agreement shall apply. When a remote solar generation facility~~
20 ~~is not directly interconnected to a transmission line, no~~
21 ~~transmission rates shall apply. When a remote solar generation~~
22 ~~facility is directly interconnected to a distribution line, applicable~~
23 ~~distribution rates as determined by the Interconnection~~
24 ~~Agreement shall apply. When HHWP remote solar generation~~
25 ~~and the qualifying remote load it serves are located within the~~
26 ~~City and County of San Francisco and are interconnected at~~
27 ~~distribution voltage, the applicable rate for delivery of energy~~
28 ~~from HHWP remote solar generation shall be reduced as~~
29 ~~negotiated pursuant to the Interconnection Agreement.~~

30 (7) The appropriate regulatory agency shall ensure that the
31 delivery of electricity by HHWP remote solar generation to
32 qualifying remote load, and the granting of offsets to the City and
33 County of San Francisco pursuant to this subdivision, do not
34 result in a shifting of costs to bundled service customers, either
35 immediately or over time.

36 (i) Hetch Hetchy Water and Power shall reimburse Pacific Gas
37 and Electric Company for its reasonable study costs associated
38 with HHWP remote solar generation to address interconnection,
39 consistent with ~~Rule 21, and impacts upon the distribution~~
40 ~~applicable regulatory rules, and impacts upon the electric system~~

1 resulting from the HHWP remote solar generation. If the studies
2 identify improvements necessary for the protection of the Pacific
3 Gas and Electric Company ~~distribution~~ *electric* system, for the
4 protection of its employees, or to ensure reliable delivery of the
5 electricity generated by the HHWP remote solar generation
6 facility to qualifying remote load, Hetch Hetchy Water and
7 Power shall pay the reasonable costs of the improvements if it
8 elects to designate the HHWP remote solar generation facility to
9 provide electricity for qualifying remote load. ~~For purposes of~~
10 ~~this subdivision, "Rule 21" means the Interconnection Standards~~
11 ~~for distributed generation adopted by the commission in Decision~~
12 ~~00-11-001 and Decision 00-12-037, as modified by the~~
13 ~~commission and implemented in commission-authorized tariff~~
14 ~~Rule 21.~~

15 (j) Ownership and use of the environmental attributes
16 associated with the electricity delivered to the electric grid by
17 HHWP at-site solar generation and HHWP remote solar
18 generation shall be determined by the commission in accordance
19 with Article 16 (commencing with Section 399.11) of Chapter
20 2.3 of Part 1.

21 SEC. 2. The Legislature finds and declares that, because of
22 the unique circumstances applicable only to Hetch Hetchy Water
23 and Power solar generation of electricity, a statute of general
24 applicability cannot be enacted within the meaning of
25 subdivision (b) of Section 16 of Article IV of the California
26 Constitution. Therefore, this special statute is necessary.

27 SEC. 3. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 the only costs that may be incurred by a local agency or school
30 district will be incurred because this act creates a new crime or
31 infraction, eliminates a crime or infraction, or changes the
32 penalty for a crime or infraction, within the meaning of Section
33 17556 of the Government Code, or changes the definition of a
34 crime within the meaning of Section 6 of Article XIII B of the
35 California Constitution.

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- 2 **CORRECTIONS:**
- 3 **Text — page 4.**
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